

MINUTES
BOARD OF SUPERVISORS
COUNTY OF YORK

Regular Meeting
August 5, 2003

7:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 7:01 p.m., Tuesday, August 5, 2003, in the Board Room, York Hall, by Chairman James S. Burgett.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zarembo, Sheila S. Noll, Donald E. Wiggins, James S. Burgett, and Thomas G. Shepperd.

Also in attendance were James O. McReynolds, County Administrator; J. Mark Carter, Assistant County Administrator; and Carla Blake Hook, Assistant County Attorney.

Invocation. Mr. Gregory Davy, Public Information Officer, gave the Invocation.

Pledge of Allegiance to the Flag of the United States of America. Chairman Burgett led the Pledge of Allegiance.

PRESENTATIONS

INTRODUCTION OF NEW MEMBERS TO YORK COUNTY BOARDS AND COMMISSIONS

Chairman Burgett welcomed and introduced Mr. Frederick W. Harvell as the newly appointed member to the York County Planning Commission and presented him with a Boards and Commissions Handbook and York County pin.

CITIZENS COMMENT PERIOD

No one appeared to speak at this time.

COUNTY ATTORNEY REPORTS AND REQUESTS

Mrs. Hook had no report to make at this time.

COUNTY ADMINISTRATOR REPORTS AND REQUESTS

Mr. McReynolds reminded the Board that the next regular meeting is August 19 and that the work session previously scheduled for August 12 had been cancelled. He also reported that things were going smoothly this summer with no significant issues or problems being raised.

MATTERS PRESENTED BY THE BOARD

Mr. Zarembo stated the Board had met several weeks ago with the Commissioner of the Revenue and the Treasurer on the possible elimination of vehicle decals. He asked that Mr. McReynolds give the Board an update as to the status of this initiative.

Mr. McReynolds stated he met yesterday with the Commissioner of the Revenue, Treasurer, and Carol White to discuss the direction from the Board. He noted the plan is to bring a recommended ordinance to the Board of Supervisors on September 2, and the materials are being developed at the present time.

Mr. Zaremba addressed the proposed architectural review guidelines pertaining to the historic district of Yorktown. This has been an issue under study and discussion for months, and about six weeks ago the subject was before the Board at a work session. After debate the Board tabled it. He indicated there will be a vote on the subject in the near future, and from what he understands, most citizens want guidelines to protect Yorktown. Mr. Zaremba stated he concurred that something must be done to protect the town because there are no guarantees that the next generation of owners will be as responsible as the current generation. He noted the citizens of the town have refused to get involved, and a vocal minority has decided that nothing but status quo is acceptable; and because of that, the results will be far less effective than they would be if the citizens of the town would have gotten involved.

Mr. Wiggins spoke of the new hospital that will open soon to replace Williamsburg Community Hospital. He noted that a couple of years ago the hospital decided it needed more room to expand and to provide more services to the community, and the board of the hospital set a plan in motion to purchase a piece of property large enough to serve citizens from the entire area, to have advanced technology, and to seek the best doctors and medical staff to work there. He stated the hospital board also dreamed of having a complex that would include a hotel for the families of the patients. He indicated the dream came true in York County, and he had attended the grand opening this past week with a tour of all the facilities. Mr. Wiggins stated it will be one of the best facilities on the east coast.

Mrs. Noll noted yesterday she went to see the Lackey Free Clinic, stating it is also a dream a long time coming to the residents. She thanked all the staff members responsible for working with Dr. Shaw to get it up and running, noting it will mean a great deal to the people of Lackey. Mrs. Noll then spoke of an article in this morning's newspaper stating a judge was appointed to hear the appeal on the decision made by VMRS denying the permit for the King William Reservoir. She indicated this is also a dream that Peninsula residents need to see come true because water is needed for the Peninsula. Its development will protect the property against future unwanted development and provide a much more environmentally safe choice. Mrs. Noll also spoke on another newspaper article about being a junior volunteer interpreter in Colonial Williamsburg. She noted York County is a part of the Historic Triangle, but this program only allows children of the Bruton District to be eligible for the program. She indicated these are the kinds of decisions that cause friction between the localities.

Mr. Shepperd stated this past month he had the opportunity to continue his education on York County by watching the Safety Town Program. He stated he was truly impressed with what the children were being taught in terms of safety, and he strongly encouraged parents to have their young children participate in this program. Mr. Shepperd noted he also attended his first meeting of the Hampton Roads Planning District Commission (HRPDC), and was dismayed by the negative comments concerning this organization in the newspaper. He stated it is designed to review and present matters and let the politicians go forward to make laws and determine the best course of action. He then shared information provided during the meeting on the Regional Economic Review, stating he was impressed by the presentation and the participation of the localities in attendance.

Chairman Burgett stated he planned on being at the grand opening of the Lackey Free Clinic on Sunday, stating he feels it is will be a terrific asset to the York community. He then discussed the problem the County is having with graffiti, and indicated the County will keep after the individuals doing it until they are caught. He asked the citizens to be vigilant and call law enforcement when they see facilities being vandalized with graffiti. Mr. Burgett then noted he had met with the Lakeside Forest Homeowners Association and VDOT on the Lakeside Drive proposal to see what it will look like. He stated VDOT was well prepared, and the citizens received answers to their questions. Mr. Burgett then addressed his attendance at the last meeting of Mayors and Chairs, noting that discussion took place concerning the two economic development alliances and workforce development boards that are looking at merging. He stated the Peninsula Workforce Development Program is far ahead of that of Southside, and he did not believe the merger would be in the best interest of York County. He did state, though, that Hampton and Newport News are big players; and their economic health affects York County's economic health. Mr. Burgett stated he will provide the Board with more information so that it can take a position on this matter in the near future. Finally, he asked staff if there

any way the County can make the owners of the five vacant service stations cut their grass and keep the properties policed.

CONSENT CALENDAR

Mrs. Noll asked that Item No. 8 be removed from consideration on the Consent Calendar.

Mr. Zaremba asked that Item No. 7 be removed from consideration.

Mr. Shepperd moved that the Consent Calendar be approved as amended, Item Nos. 6 and 9, respectively.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Wiggins, Shepperd, Burgett
Nay: (0)

Thereupon, the following minutes were approved and resolution adopted:

Item No. 6. APPROVAL OF MINUTES

The minutes of the following meetings of the York County Board of Supervisors were approved:

June 17, 2003, Regular Meeting
June 24, 2003, Adjourned Meeting

Item No. 9. NATIONAL DOMESTIC PREPAREDNESS OFFICE GRANT: Resolution R03-133

A RESOLUTION TO ACCEPT AND APPROPRIATE FY03 NATIONAL DOMESTIC PREPAREDNESS OFFICE GRANT FUNDS IN THE AMOUNT OF \$55,441 FOR RESPONDER EQUIPMENT AND OTHER EQUIPMENT ESSENTIAL TO SUPPORT THE MISSION OF THE DEPARTMENT OF FIRE AND LIFE SAFETY AND THE SHERIFF'S OFFICE

WHEREAS, the County is vulnerable to the threat of terrorism and, in particular, the use of Weapons of Mass Destruction (WMD), and the Department of Fire and Life Safety, as well as the Sheriffs Office, are the first responders to such events; and

WHEREAS, the National Domestic Preparedness Office is making funds available to localities to assist in their preparation efforts; and

WHEREAS, the Virginia Department of Emergency Management (VDEM) has been designated as state manager of these grants; and

WHEREAS, the funding purchases authorized by these grants are restricted to a specified and limited commodity list and do not require a local match; and

WHEREAS, the County has been awarded \$55,441 by the Department of Justice and the Virginia Department of Emergency Management;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 5th day of August, 2003, that the County Administrator be and hereby is authorized to accept and appropriate grant funds in the amount of \$55,441 toward the purchase of equipment and other commodities as specified in notification of funding and according to needs identified by both the Department of Fire and Life Safety and the Sheriffs Office, and to execute any necessary grant agreements, related contracts, or other documents, subject to approval as to form by the County Attorney, to provide such additional information as may be required by the terms of the grant agreement, and to do all things necessary to implement the National Domes-

tic Preparedness Office Grant Program.

Item No. 8. GRANT CONTRACT FOR FUNCTIONAL FAMILY THERAPY PROGRAM: Proposed Resolution R03-128 (Removed from Consent Calendar)

Mrs. Noll stated additional staff will be added with the grant, and she asked if the new person will go away with the grant.

Mr. Frank Rogers, Community Services Department, indicated the staff position would terminate when the grant did.

Mrs. Noll then moved the adoption of proposed Resolution R03-128 that reads:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR
TO TAKE ALL ACTIONS NECESSARY TO ACCEPT A GRANT IN THE
AMOUNT OF \$211,130 FROM THE VIRGINIA DEPARTMENT OF
CRIMINAL JUSTICE SERVICES FOR A FUNCTIONAL FAMILY
THERAPY PROGRAM

WHEREAS, the York County Board of Supervisors has a long standing commitment to enhancing services to juveniles and their families; and

WHEREAS, the Functional Family Therapy program represents a valuable resource for the County's citizens and significantly improves the dispositional alternatives offered by the Department of Community Services to the Juvenile Court; and

WHEREAS, the Virginia Department of Criminal Justice Services has awarded a grant to be implemented by Juvenile Services staff of the Community Services Department, therefore making it possible to implement this program with no local fiscal impact;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 5th day of August, 2003, that the County Administrator be, and he is hereby, authorized to accept funding in the amounts offered the County by the Virginia Department of Criminal Justice Services ("the Department"), to execute any necessary grant agreements, related contracts, or other documents, subject to approval as to form by the County Attorney, to provide such additional information to the Department as may be required by the terms of the grant agreement, and to do all things necessary to implement the Functional Family Therapy Program.

BE IT FURTHER RESOLVED that the County Administrator is authorized to accept any subsequent offer of funding that would not exceed available resources for any required matches and to increase amounts appropriated in the FY2004 budget if and when funds become available and to advise the Board of all such actions in writing.

On roll call the vote was:

Yea: (5) Noll, Wiggins, Shepperd, Zaremba, Burgett
Nay: (0)

Item No. 7. COMMENDATION OF YORK COUNTY RESIDENT: Proposed Resolution R03-131 (Removed from Consent Calendar)

Mr. Zaremba summarized the proposed resolution commending a former student of Bruton High School, Ryan Freeman, a Down's Syndrome individual who was selected to represent the Commonwealth of Virginia and the United States in the Special Olympics in Dublin, Ireland. He noted his swimming ability brought home a gold and a silver medal. He stated he wanted to make sure this achievement gets the proper publicity.

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Chairman Burgett stated the Board would invite Mr. Freeman and his parents to a future meeting of the Board of Supervisors so that the resolution can be presented to him in person and so that the Board can congratulate him personally.

Mr. Zaremba then moved the adoption of proposed Resolution R03-131 that reads:

A RESOLUTION TO COMMEND RYAN FREEMAN AND CONGRATULATE HIM ON HIS ACHIEVEMENTS AT THE SPECIAL OLYMPICS WORLD SUMMER GAMES

WHEREAS, the 2003 Special Olympics World Summer Games were held in Dublin, Ireland, with more than 7,000 athletes representing 160 countries participating in 21 sports; and

WHEREAS, Team USA sent 1,000 athletes and 300 coaches from all 50 states and the District of Columbia, including 16 athletes and five coaches from Virginia; and

WHEREAS, one of the 16 athletes from Virginia was Ryan Freeman, 23, of York County; and

WHEREAS, Ryan qualified for the games at this year's state championships in Richmond, Virginia, where he won two gold medals and one bronze medal, and became one of four athletes selected by the Virginia delegation swim team to represent Team USA; and

WHEREAS, at the games "Flyin" Ryan achieved a gold medal in the 25-meter freestyle swimming competition, as well as a silver medal in the 4-by-25 meter freestyle relay; and

WHEREAS, Ryan's proud parents, Suzanne and Donnie Freeman, traveled to Dublin and were present to see their son in the competition and to win the gold and silver medals; and

WHEREAS, the York County Board of Supervisors wishes to recognize Ryan's courageous achievements and congratulate him;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 5th day of August, 2003, that Ryan Freeman be, and he is hereby, congratulated for his selection to this year's Special Olympics Team USA and commended for attaining gold and silver medals at the 2003 Special Olympics World Summer Games.

BE IT FURTHER RESOLVED that sincere and heartfelt best wishes of the Board of Supervisors are extended to Ryan and his family for continuing success and happiness in all his future endeavors.

On roll call the vote was:

Yea: (5) Wiggins, Shepperd, Zaremba, Noll, Burgett
Nay: (0)

CLOSED MEETING. At 7:37 p.m. Mr. Shepperd moved that the meeting be convened in Closed Meeting pursuant to Section 2.2-3711(a)(5) pertaining to a prospective business or industry or expansion of an existing business or industry where no previous announcement has been made.

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Wiggins, Burgett
Nay: (0)

Meeting Reconvened. At 8:02 p.m. the meeting was reconvened in open session by order of the Chair.

Mrs. Noll moved the adoption of proposed Resolution SR-1 that reads:

A RESOLUTION TO CERTIFY COMPLIANCE WITH THE FREE-
DOM OF INFORMATION ACT REGARDING MEETING IN CLOSED
MEETING

WHEREAS, the York County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711.1 of the Code of Virginia requires a certification by the York County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 5th day of August, 2003, hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the York County Board of Supervisors.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Wiggins, Shepperd, Burgett
Nay: (0)

PUBLIC HEARINGS

APPLICATION NO. ZT-77-03, YORK COUNTY PLANNING COMMISSION

Mr. Carter made a presentation on Application No. ZT-77-03 to amend the York County Zoning Ordinance to incorporate changes made necessary by revisions to the Code of Virginia. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Ordinance No. 03-31.

Chairman Burgett called to order a public hearing on Application No. ZT-77-03 which was duly advertised as required by law. Proposed Ordinance No. 03-31 is entitled:

AN ORDINANCE TO APPROVE APPLICATION NO ZT-77-03 TO
AMEND THE YORK COUNTY ZONING ORDINANCE (CHAPTER
24.1, YORK COUNTY CODE) TO INCORPORATE CHANGES
MADE NECESSARY BY RECENT AMENDMENTS TO THE CODE
OF VIRGINIA

There being no one present who wished to speak concerning the subject application, Chairman Burgett closed the public hearing.

Mrs. Noll moved the adoption of proposed Ordinance No. 03-31 that reads:

AN ORDINANCE TO APPROVE APPLICATION NO ZT-77-03 TO
AMEND THE YORK COUNTY ZONING ORDINANCE (CHAPTER
24.1, YORK COUNTY CODE) TO INCORPORATE CHANGES
MADE NECESSARY BY RECENT AMENDMENTS TO THE CODE
OF VIRGINIA

WHEREAS, by action of the 2003 General Assembly, certain sections of the Code of Virginia pertaining to zoning regulations were amended and create a need to consider corresponding amendments to the York County Zoning Ordinance; and

WHEREAS, the Planning Commission has sponsored this application after determining that public necessity and good zoning practice require that appropriate amendments be considered to incorporate these changes; and

WHEREAS, the Planning Commission has recommended approval of the proposed amendments, subsequent to conducting a duly advertised public hearing; and

WHEREAS, the Board of Supervisors has considered the recommendations of the Planning Commission and has determined that the amendments should be approved.

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 5th day of August, 2003, that it does hereby approve Application No. ZT-77-03 to amend various sections of Chapter 24.1, Zoning, of the York County Code, as follows:

Sec. 24.1-109. Administration, enforcement, and penalties.

- (a) The zoning administrator or designated agent is hereby authorized, on behalf of the board, to administer and enforce this chapter. Such authority shall include the ability to make official interpretations of this chapter and the zoning maps as described in section 24.1-110 and to order, in writing, the remedy of any condition found in violation of this chapter, and the ability to bring legal action to ensure compliance with its provisions, including injunction, abatement, or other appropriate action or proceeding.
- (b) All departments, officials and employees of the county which are vested with duty or authority to issue permits or licenses shall conform to the provisions of this chapter. They shall issue permits for uses, buildings or purposes only when they are consistent with the provisions of this chapter. Any such permits, if issued in conflict with the provisions of this article, shall be null and void.
- (c) *Penalties.* Violating, causing, or permitting the violation of, or otherwise disregarding any of the provisions of this chapter by any person, firm or corporation, whether as principal, agent, owner, lessee, employee or other similar position shall be unlawful and is subject to the following:
 - (1) *Criminal sanctions.* Upon conviction, any such violation shall be a misdemeanor punishable by a fine of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00). If the violation is uncorrected at the time of the conviction, the court may order the violator to abate or remedy the violation in compliance with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00), and any such failure during any succeeding thirty (30) day period shall constitute a separate misdemeanor offense for each thirty (30) day period punishable by a fine of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00).
 - (2) *Injunctive relief.* Any violation or attempted violation of this chapter may be restrained, corrected or abated, as the case may be, by injunction or other appropriate proceedings for relief.
 - (3) *Civil fines:*
 - a. Any person summoned or issued a ticket for a violation of this chapter listed in subsection (b) below may make an appearance in person or in

writing by mail to the county treasurer prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability and pay the civil penalty established in this section for the offense charged, in lieu of criminal sanctions. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court. If a person charged with scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided by law.

- b. A civil penalty is hereby established for a violation of any offense listed below in the amount of one hundred dollars (\$100.00) for any one (1) violation for the initial summons and two hundred fifty (\$250.00) for each additional summons:
 - 1. Constructing, placing, erecting, installing or maintaining an accessory structure in violation of section 24.1-270 et seq.
 - 2. Constructing, placing, erecting or displaying a sign in violation of section 24.1-700 et seq.
 - 3. Erecting, altering, or changing use or occupancy of any building, structure, or premises without first obtaining a zoning certificate or certificate of zoning compliance in violation of section 24.1-107.
 - 4. Failure to perpetuate and maintain all landscaping, screening, and fencing materials required by this chapter in violation of section 24.1-242.
 - 5. Operating, conducting or maintaining a home occupation in violation of Article II – Division 8, Home Occupations.
 - 6. Occupying, or permitting to be occupied, a single-family dwelling by more than four (4) unrelated individuals in violation of the definition of “Family” in section 24.1-104.
 - 7. Failure to observe the requirements for keeping sight triangles, as described in section 24.1-220(b), free of obstructions.
- c. Each day during which a violation is found to exist shall be a separate offense. However, in no event shall specified violations arising from the same set of operative facts be charged more frequently than once in a ten (10) day period and in no event shall a series of such violations result in civil penalties which exceed a total of more than five thousand dollars (\$5,000.00).
- d. No provisions herein shall be construed to allow the imposition of civil penalties for:
 - 1. enforcement of the Uniform Statewide Building Code;
 - 2. activities related to land development;
 - 3. violations of the erosion and sediment control ordinance;
 - 4. violations relating to the posting of signs on public property or public rights-of-way; or
 - 5. violations resulting in injury to any person or persons.

Sec. 24.1-709. Abandoned signs.

A sign, including its supporting structure or brackets, shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer on the premises. In the event a nonconforming sign refers to a business that has not been in operation for a period of at least two (2) years, such sign shall be considered abandoned and shall be considered to be in violation of this chapter. After reasonable efforts to provide notice to the property owner of the need to remove the violation, and failure of the property owner to do so, the zoning administrator may cause the abandoned sign to be removed at the owner's expense.

Sec. 24.1-802. Nonconforming structures.

- (a) *Enlargement or alteration.* No structure which is nonconforming by reason of a conflict with the setback, yard, height or similar regulations of the district in which located may be enlarged, extended, reconstructed, structurally altered or moved in any way which increases its nonconformance with the applicable setback, yard, height or similar regulations of the district in which located. Except as may be provided in article II relative to front yards in built-up areas, any addition to nonconforming structures shall comply in all respects with the applicable setback, yard, height or similar regulations of the district in which located.
- (b) *Damage or destruction.* A nonconforming structure which is damaged or destroyed by a cause beyond the control of the owner may be reconstructed at the location of its original foundation, or at a location on the lot which is conforming or more nearly conforming provided that such reconstruction occurs within two (2) years of such damage or destruction and provided that a site plan submitted in accordance with article V of this chapter is approved. Should such reconstruction not occur within two (2) years, or in the event the damage or destruction, regardless of its extent, was initiated or caused by the owner of the structure, such structure may be reconstructed only in full accordance with the provisions of this chapter.
- (c) *Special provisions for manufactured housing units.* Nothing in this section shall be construed to prevent the removal of a valid nonconforming manufactured home from a mobile or manufactured home park and replacing that home with another comparable manufactured home that meets the current HUD manufactured housing code, provided that the degree of nonconformity with any yard or setback requirements applicable to the district in which located does not increase. In such mobile or manufactured home park, a single-section home may replace a single-section home and a multi-section home may replace a multi-section home. If the nonconforming mobile or manufactured home is located on a property not within a mobile home park, it may be replaced with a newer manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code and provided that any nonconformity with yard or setback requirements does not increase. Such replacement unit shall retain the valid nonconforming status of the home.

On roll call the vote was:

Yea: (5) Noll, Wiggins, Shepperd, Zaremba, Burgett
 Nay: (0)

APPLICATION NO. ST-10-03, YORK COUNTY PLANNING COMMISSION

Mr. Carter made a presentation on Application No. ST-10-03 to amend the York County Subdivision Ordinance to incorporate a requirement for the review of subdivision plans/plats re-

submissions to be processed and acted on within 45 days. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Ordinance No. 03-32.

Mr. Zaremba asked if staff has concluded there is an actual cost to the County through overtime, man-hours, or more positions.

Mr. Carter stated staff did not know at this time. Staff just wanted to point out there is the possibility if they are faced with 15 less days of review time.

Discussion followed concerning the requirement to reduce the review time was possibly an unfunded mandate on the County.

Mr. Shepperd stated the action before the Board is to bring the County's requirements up to State Code. He stated the Board's course of action now is to take it to the legislators, and he will not support this ordinance.

Chairman Burgett then called to order a public hearing on Application No. ST-10-03 which was duly advertised as required by law. Proposed Ordinance No. 03-32 is entitled:

AN ORDINANCE TO APPROVE APPLICATION NO. ST-10-03 TO
AMEND THE YORK COUNTY SUBDIVISION ORDINANCE (CHAPTER
20.5, YORK COUNTY CODE) TO INCORPORATE CHANGES
MADE NECESSARY BY RECENT AMENDMENTS TO THE CODE
OF VIRGINIA

There being no one present who wished to speak concerning the subject application, Chairman Burgett closed the public hearing.

Chairman Burgett indicated that many times plans are held up because the engineers drawing them up don't do their jobs correctly or meet all of the requirements of the County's ordinances for drawing up and submitting plans.

Mr. Zaremba asked Mrs. Hook why the Board had to adopt this ordinance when it was a mandate by the State.

Mrs. Hook stated the Board needed to adopt the ordinance to bring the County's ordinances into conformance with the State Code. Even if the Board did not adopt it, the State's requirements would prevail.

Mrs. Noll moved the adoption of proposed Ordinance No. 03-32 that reads:

AN ORDINANCE TO APPROVE APPLICATION NO. ST-10-03 TO
AMEND THE YORK COUNTY SUBDIVISION ORDINANCE (CHAPTER
20.5, YORK COUNTY CODE) TO INCORPORATE CHANGES
MADE NECESSARY BY RECENT AMENDMENTS TO THE CODE
OF VIRGINIA

WHEREAS, by action of the 2003 General Assembly, certain sections of the Code of Virginia pertaining to subdivision regulations were amended and create a need to consider corresponding amendments to the York County Subdivision Ordinance; and

WHEREAS, the Planning Commission has sponsored this application, has conducted a duly advertised public hearing and has recommended approval of the proposed amendments; and; and

WHEREAS, the Board of Supervisors has considered the recommendation of the Planning Commission and has determined that the amendments are necessary and appropriate.

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 5th day of August, 2003, that it does hereby approve Application No. ST-10-03 to amend Chapter 20.5, Subdivisions, of the York County Code, as follows:

Sec. 20.5-28. Preliminary plan.

Any person desiring to subdivide land shall, unless exempted under the provisions of section 20.5-27, prepare and submit ten (10) copies of a preliminary plan to the agent together with a completed application and the appropriate fee.

- (a) *Initial review by agent.* Upon the submission of a preliminary plan together with a completed application and the appropriate fee, the agent shall, within five (5) working days, review the plan to ensure compliance with all submission requirements established by article III of this chapter. Where the agent determines that all applicable submission requirements have not been met, the plans and application shall be returned to the subdivider with a written notice stating the specific deficiencies, referencing specific ordinances, regulations or policies, and generally identifying such modifications or corrections as will permit compliance with all submission requirements.
- (b) *Review process.* Upon determining that all submittal requirements have been met, the agent shall coordinate a review process to determine conformity of the proposal with all applicable requirements of this chapter and other applicable ordinances, requirements, and regulations.
 - (1) The agent may transmit copies of the preliminary plan to those county departments and state and/or federal agencies deemed appropriate for their review and comment and shall establish a date for which written comments shall be returned to the agent.
 - (2) After receiving the comments of all reviewing departments or agencies, or within sixty (60) days of submission of the preliminary plan by a subdivider, whichever shall occur first, the agent shall consolidate all of the comments and provide a written response to the subdivider. In the event of a resubmission of a preliminary plan which has been previously disapproved, the response shall be provided within forty-five (45) days.

Where review by one (1) or more state agencies, including, but not limited to, the health department and/or department of transportation, is necessary, the comments or approvals of such state agency or agencies shall be provided within thirty-five (35) days of their receipt by the agent.
 - (3) The agent's written response to the subdivider shall include notification of approval or disapproval or approval with conditions. Such notice shall state any actions, changes, conditions, or additional information that is required to secure final approval of the preliminary plan and, if disapproved, the reasons for such action with specific reference to an adopted ordinance, regulation or policy and identifying such modifications or corrections as will permit approval of the plan.
 - (4) Where the agent has required that revisions or other actions, changes, conditions, or additional information be incorporated into the preliminary plan prior to approval, the subdivider shall resubmit, without additional fee, ten (10) copies of the revised plan together with the original or a copy of any marked plans returned to the subdivider by the agent. In addition, a narrative description shall be submitted regarding how each of the actions, changes, conditions, or additional information required has been addressed on the revised plan. The revised plan shall then be reviewed in the same manner and within the same time elements as was the original.
- (c) *Effect of approval.*

- (1) Approval of the preliminary plan shall not constitute a guarantee of approval of either the development plan or the final plat.
 - (2) Approval of the preliminary plan shall constitute authorization for the subdivider to proceed with the preparation of development plans in accordance with the provisions of this chapter and the layout and design depicted on the approved preliminary plan.
- (d) *Term of validity.*

The subdivider shall have one (1) year from the date of official notification of approval of the preliminary plan within which to file a development plan meeting all of the submittal requirements established in article IV of this chapter for the subdivision or section thereof. Failure to do so shall make the preliminary plan approval null and void. The agent may, on written request of the subdivider received no fewer than ten (10) working days prior to expiration of validity and for good cause shown, grant one (1) six-month extension of preliminary plan approval.

Sec. 20.5-29. Development plan.

The subdivider shall, unless otherwise provided by section 20.5-27 of this chapter, after receiving approval of the preliminary plan and within the time specified in section 20.5-28(d), submit ten (10) copies of a development plan for the subdivision or section thereof prepared in accordance with article IV of this chapter to the agent together with the appropriate application and fee.

- (a) *Initial review by agent.* Upon the submission of a development plan together with a completed application and the appropriate fee, the agent shall, within five (5) working days, review the plan to ensure compliance with all submission requirements established by article IV of this chapter. Where the agent determines that all applicable submission requirements have not been met, the plans and application shall be returned to the subdivider with a written notice stating the specific deficiencies, referencing specific ordinances, regulations or policies, and generally identifying such modifications or corrections as will permit compliance with all submission requirements.
- (b) *Review process.* Upon determining that all submittal requirements have been met, the agent shall coordinate a review process to determine conformity of the proposed design elements and physical improvements with all applicable requirements of this chapter and all other applicable ordinances, requirements, and regulations.
 - (1) The agent shall transmit copies of the development plan to those county departments and state and/or federal agencies deemed appropriate for their review and comment and shall establish a date for which written comments shall be returned to the agent.
 - (2) After receiving the comments of all reviewing departments or agencies, or within sixty (60) days of submission of the development plan by a subdivider, whichever shall occur first, the agent shall consolidate all of the comments and provide a written response to the subdivider. In the event of a resubmission of a development plan which has been previously disapproved, the response shall be provided within forty-five (45) days.

Where review by one or more state agencies, including, but not limited to, the health department and/or department of transportation, is necessary, the comments or approvals of such state agency or agencies shall be provided within thirty-five (35) days of their receipt by the agent.

- (3) The agent's written response to the subdivider shall include notification of approval or disapproval or approval with conditions. Such notice shall state any

actions, changes, conditions, or additional information which shall be required to secure final approval of the development plan and, if disapproved, the reasons for such action with specific reference to an adopted ordinance, regulation or policy, and an identification of such modifications or corrections as will permit approval of the plan.

- (4) Where the agent has required that revisions or other actions, changes, conditions, or additional information be incorporated into the development plan prior to approval, the subdivider shall resubmit, without additional fee, ten (10) copies of the revised plan together with the original or a copy of any marked plans returned to the subdivider by the agent. In addition, a narrative description shall be submitted regarding each of the actions, changes, conditions, or additional information required has been addressed on the revised plan. The revised plan shall then be reviewed in the same manner and within the same time elements as was the original.

(c) *Effect of approval.*

- (1) Approval of the development plan shall constitute authorization for the subdivider to proceed with the preparation of final plats for those sections of the subdivision contained in the approved development plan in accordance with the provisions of article V of this chapter.
- (2) Approval of the development plan shall, upon issuance of all necessary permits including, but not limited to, land disturbing permits and utility certificates to construct, constitute authority to commence development and construction activities which are in accordance with the approved development plan but only within such section or sections which have received approval. Nothing in this provision however, shall be interpreted to authorize the construction of any structure on any proposed lot other than such structures which are appurtenant to utility installations.

- (d) *Term of validity.* The subdivider shall have one (1) year from the date of official notification of approval of the development plan within which to file a final plat for those sections contained in said plan meeting all of the submittal requirements established in article V of this chapter. Failure to do so shall make the development plan approval null and void. The agent may, on written request of the subdivider received no fewer than ten (10) working days prior to expiration of validity and for good cause shown, grant one (1) one-year extension of development plan approval.

Sec. 20.5-30. Final plat.

The subdivider shall, unless otherwise prescribed in section 20.5-27 of this chapter, after approval of the development plan and within the time specified in section 20.5-29(d), submit eight (8) copies of the final plat for those sections contained on the approved development plan to the agent for review and approval. The final plat shall be prepared in accordance with article V of this chapter and shall be submitted together with the applicable application and fee. The agent may, upon written request and for good cause shown, accept for review final plats before approval has been granted to development plans, however approval of a final plat requires that it fully conform with the approved development plan, if such a plan is required.

- (a) *Initial review by agent.* Upon the submission of a final plat together with a completed application and the appropriate fee, the agent shall, within five (5) working days, review the plat to ensure compliance with all submission requirements established by article V of this chapter. Where the agent determines that all applicable submission requirements have not been met, the plat and application shall be returned to the subdivider with a written notice stating the specific deficiencies, referencing specific ordinances, regulations or policies, and generally identifying such modifications or corrections as will permit compliance with all submission requirements.

- (b) *Review process.* Upon determining that all submittal requirements have been met, the agent shall coordinate a review process to determine conformity of the plat with all applicable requirements of this chapter and all other applicable ordinances, requirements, and regulations.
- (1) The agent shall transmit copies of the final plat to those county departments and state and/or federal agencies deemed appropriate for their review and comment and shall establish a date for which written comments shall be returned to the agent.
 - (2) After receiving the comments of all reviewing departments or agencies, or within sixty (60) days of submission of the final plat by a subdivider, whichever shall occur first, the agent shall consolidate all of the comments and provide a written response to the subdivider. In the event of a resubmission of a final plat which has been previously disapproved, the response shall be provided within forty-five (45) days.
 - (3) The agent's written response to the subdivider shall include notification of approval or disapproval or approval with conditions. Such notice shall state any actions, changes, conditions, or additional information which shall be required to secure final approval of the plat and, if disapproved, the reasons for such action with specific reference to an adopted ordinance, regulation or policy, and identifying such modifications or corrections as will permit approval of the plat.
 - (4) Where the agent has required that revisions or other actions, changes, conditions, or additional information be incorporated into the final plat prior to approval, the subdivider shall within sixty (60) days resubmit, without additional fee, eight (8) copies of the revised plat together with the original or a copy of any marked plats returned to the subdivider by the agent. In addition, a narrative description shall be submitted regarding how each of the actions, changes, conditions, or additional information required has been addressed on the revised plat. The revised plat shall then be reviewed in the same manner and within the same time elements as was the original. The agent, for good cause shown, may grant an extension of the sixty (60) day time limitation, provided a written request is received from the subdivider no fewer than ten (10) working days prior to expiration of the term established herein.
- (c) *Effect of approval.* Approval of the final plat shall constitute authorization for the subdivider to proceed with the preparation of record plats depicting the information contained on the approved final plat.
- (d) *Term of validity.* The subdivider shall have six (6) months from the date of official notification of approval of the final plat within which to have the record plat filed and recorded by the clerk of the circuit court. Failure to do so shall make approval null and void, and the subdivider shall be required to return the approved copy of the final plat to the agent in order that it may be so marked. Reapproval shall require resubmission in full compliance with the regulations then in effect. Where the subdivision involves the construction of facilities to be dedicated for public use and the subdivider has commenced the construction of such facilities with surety approved by the agent, or where the subdivider has furnished surety in accordance with Section 20.5-108 of this chapter, the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement covering construction of required public improvements, whichever is greater.

On roll call the vote was:

Yea:	(3)	Wiggins, Noll, Burgett
Nay:	(2)	Shepperd, Zaremba

COMPREHENSIVE REGIONAL INFORMATION MANAGEMENT AND EXCHANGE SYSTEM (CRIMES)

Mr. McReynolds briefly explained the purpose of proposed Ordinance No. 03-29 to approve participation of the York County Sheriff's Office in the CRIMES program and to authorize the execution of a working agreement.

Chairman Burgett called to order a public hearing on proposed Ordinance No. 03-29 which was duly advertised as required by law and is entitled:

AN ORDINANCE TO INDICATE APPROVAL FOR THE YORK COUNTY SHERIFF'S OFFICE TO PARTICIPATE IN THE COMPREHENSIVE REGIONAL INFORMATION MANAGEMENT AND EXCHANGE SYSTEM (CRIMES) AND TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE THE WORKING AGREEMENT

There being no one present who wished to speak concerning the subject ordinance, Chairman Burgett closed the public hearing.

Mr. Shepperd noted it makes sense to support law enforcement when the Board has an opportunity to cross boundaries to support each other. He stated this is an action that will strengthen our police force, and he moved the adoption of proposed Ordinance No. 03-29 that reads:

AN ORDINANCE TO INDICATE APPROVAL FOR THE YORK COUNTY SHERIFF'S OFFICE TO PARTICIPATE IN THE COMPREHENSIVE REGIONAL INFORMATION MANAGEMENT AND EXCHANGE SYSTEM (CRIMES) AND TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE THE WORKING AGREEMENT

WHEREAS, the Comprehensive Regional Information Management and Exchange System (CRIMES) has been established pursuant to the Virginia Joint Exercise of Powers Act (Code of Virginia 15.2-1300 et. seq.) to enable law enforcement professionals from the jurisdictions in the Hampton Roads area to share data to enhance law enforcement capabilities; and

WHEREAS, it is deemed beneficial for the York County Sheriff's Office to participate in the CRIMES program; and

WHEREAS, Section 15.2-1300 (B) of the Code of Virginia stipulates that the governing body shall approve by ordinance any participation in a joint action under the Act.

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this 5th day of August, 2003, that approval is granted for the Sheriff's Office to participate in the CRIMES program and that the County Administrator is hereby authorized for and on behalf of the County, to execute the Working Agreement for the Hampton Roads Comprehensive Regional Information Management and Exchange System (CRIMES), as approved to form by the County Attorney.

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Wiggins, Burgett
Nay: (0)

CRUELTY TO ANIMALS

Mrs. Hook made brief presentation explaining the purpose of proposed Ordinance No. 03-26 to correct an inadvertent omission of a York County Code section to require anger management counseling for those convicted of cruelty to animals.

Chairman Burgett called to order a public hearing on proposed Ordinance No. 03-26 which was duly advertised as required by law and is entitled:

AN ORDINANCE TO AMEND SECTION 4-5, CRUELTY TO ANIMALS, YORK COUNTY CODE, TO BRING IT INTO CONFORMANCE WITH THE CODE OF VIRGINIA.

There being no one present who wished to speak concerning the subject ordinance, Chairman Burgett closed the public hearing.

Mrs. Noll moved the adoption of proposed Ordinance No. 03-26 that reads:

AN ORDINANCE TO AMEND SECTION 4-5, CRUELTY TO ANIMALS, YORK COUNTY CODE, TO BRING IT INTO CONFORMANCE WITH THE CODE OF VIRGINIA.

BE IT ORDAINED by the York County Board of Supervisors this 5th day of August, 2003, that section 4-5 of the York County Code, be and it is hereby amended to read and provide as follows:

Sec. 4-5. Cruelty to animals.

(a) Any person who:

- (1) Overrides, overdrives, overloads, tortures, illtreats, abandons (as defined in section 4-6 of this article), willfully inflicts inhumane injury or pain, not connected with a bona fide scientific or medical experimentation, upon or cruelly or unnecessarily beats, maims, mutilates or kills, any animal, whether belonging to himself or another, or deprives any animal of necessary sustenance, food, drink or shelter; or emergency veterinary treatment; or
- (2) Sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sales, show, or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes; or
- (3) Willfully sets on foot, instigates, engages in or in any way furthers any act of cruelty to any animal; or
- (4) Carries or causes to be carried in or upon any vehicle or vessel or otherwise any animal in a cruel, brutal or inhumane manner, so as to produce torture or unnecessary suffering; or
- (5) Causes any of the above things, or being the owner of such animal permits such acts to be done by another;

shall be guilty of a Class I misdemeanor.

(b) Nothing in this section shall be construed to prohibit the dehorning of cattle.

(c) The word "animal," used in this section, shall be construed to include birds and fowl.

(d) In addition to the penalties provided in subsection (a), the court may, in its discretion, require any person convicted of a violation of this section to attend an anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted.

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- (e) Any person convicted of violating this section may be prohibited by the court from possession or ownership of companion animals.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Wiggins, Shepperd, Burgett
Nay: (0)

ROUTE 143 PUMP STATION IMPROVEMENTS

Mrs. Hook made a brief presentation on proposed Resolution R03-110 to declare the necessity to enter upon and take a 225 square foot parcel of land in connection with the Route 143 pump station improvements. She stated staff was unable to obtain this parcel for improvements through normal negotiations.

Mr. Shepperd asked why staff has unable to negotiate an agreement.

Mrs. Hook stated the property owner has refused to respond to numerous phone calls and correspondence in an attempt to negotiate for the property.

Mr. Hudgins stated the ownership of the property changed from a private individual to a commercial venture. A number of letters with return receipt requested were signed and received back by the County. A number of phone calls have also been made with no response.

Chairman Burgett called to order a public hearing on proposed Resolution R03-110 which was duly advertised as required by law and is entitled:

A RESOLUTION DECLARING THE NECESSITY TO ENTER UPON
AND TAKE A 225 SQUARE FOOT PARCEL OF LAND ON PROP-
ERTY OF RADHAKRISHNA, L.L.C., IN CONNECTION WITH THE
ROUTE 143 PUMP STATION IMPROVEMENTS

There being no one present who wished to speak concerning the subject resolution, Chairman Burgett closed the public hearing.

Mrs. Noll moved the adoption of proposed Resolution R03-110 that reads:

A RESOLUTION DECLARING THE NECESSITY TO ENTER UPON
AND TAKE A 225 SQUARE FOOT PARCEL OF LAND ON PROP-
ERTY OF RADHAKRISHNA, L.L.C., IN CONNECTION WITH THE
ROUTE 143 PUMP STATION IMPROVEMENTS

WHEREAS, it is necessary to acquire a 225 square foot parcel of land located on York County Tax Map Parcel 10-10-A, owned by Radhakrishna, L.L.C., in connection with the Route 143 pump station improvements; and

WHEREAS, for various reasons, the County has not been able to obtain from the owner of such property clear title to the interest in real estate necessary, or no agreement has been reached as to the consideration to be paid for the said interest; and

WHEREAS, a plat of the interest in real property to be acquired has been prepared by Mitchell-Wilson Associates, P.C., and an evaluation of the value of such interest has been prepared; and

WHEREAS, § 15.2-1905 (C), Code of Virginia, authorizes the Board to adopt a resolution following a public hearing on the matter declaring its intent to enter and take specified properties, rights-of-way or easements for such purposes as constructing, installing, expanding, maintaining, or repairing water supply and sewage disposal systems, including pipes and lines.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors, this 5th day of August, 2003, that the Board finds that it is necessary for the protection and preservation of the public health, safety and welfare, and for the timely completion of the Route 143 pump station improvements, for the County, its officers, employees and agents to enter upon and take the interest in the subject real property, a 225 square foot parcel of land located on York County Tax Map Parcel 10-10-A, owned by Radhakrishna, L.L.C., prior to the initiation of condemnation proceedings and to utilize the condemnation procedures set forth in Chapter 3 of Title 25.1 of the Code of Virginia.

BE IT FURTHER RESOLVED that the interest to be taken, and the compensation and damages, if any, offered by the County for such is \$1,436.00, which interest is more particularly described on the plat attached to the Report of the County Attorney dated July 3, 2003, and incorporated herein by this reference.

On roll call the vote was:

Yea: (5) Noll, Wiggins, Shepperd, Zaremba, Burgett
Nay: (0)

Meeting Adjourned. At 8:23 p.m. Chairman Burgett declared the meeting adjourned sine die.

James O. McReynolds, Clerk
York County Board of Supervisors

James S. Burgett, Chairman
York County Board of Supervisors